

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CARLOS VIGIL,

Petitioner,

v.

RENEE BAKER,

Respondents.

Case No. 3:13-cv-00517-MMD-VPC

ORDER

Petitioner, Carlos Vigil, has filed a financial certificate and a petition for writ of habeas corpus. The Court has reviewed these items pursuant to Rule 4 of the Rules Governing Section 2254 Habeas Cases and finds that the documents fail to meet the minimum standard to proceed. For example, although petitioner presents a signed financial certificate which indicates he has sufficient funds to pay the filing fee, he has not submitted the required Application to Proceed In *Forma Pauperis* or copies of his prison account reports. See LSR 1-1, 1-3.

Of even greater concern, is that the petition has not been signed or verified by the petitioner. See 28 U.S.C. § 2254; LSR 3-1.

The inferred request to proceed in *forma pauperis* therefore will be denied, and the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application on the proper form with all required attachments.

1 It does not appear from the papers presented that a dismissal without prejudice
2 will materially affect a later analysis of any timeliness issue with regard to a promptly
3 filed new action.

4 Petitioner is also advised that if he desires the Court to appoint him counsel to
5 assist in habeas proceedings, he must file a separate motion making that request.
6 Merely inserting "Request for Court Appointed Counsel & Evidentiary Hearing" in the
7 document title is insufficient to present such a request.


8 It is therefore ordered that the Financial Certificate, construed as an Application
9 to Proceed In *Forma Pauperis* (dkt. no. 1) is denied.

10 It is further ordered that the petition (dkt. no. 2) is dismissed without prejudice.
11 The Court shall not issue a certificate of appealability as it does not appear from the
12 grounds presented in the petition that jurists of reason would find the dismissal of the
13 action in these circumstances debatable.

14 It is further ordered that the Clerk shall send petitioner two (2) copies of the forms
15 and one (1) copy of the instructions for an application to proceed in *forma pauperis* and
16 a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Clerk shall also
17 return copies of the documents filed in this action, including the financial certificate and
18 proposed petition. The Clerk shall enter judgment accordingly.

19 It is so ordered.

20 DATED THIS 24th day of September 2013.

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24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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